

**Calendar No. 309**

106TH CONGRESS  
1ST SESSION

**S. 1232**

**[Report No. 106-178]**

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**A BILL**

To provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.

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OCTOBER 8, 1999

Reported without amendment

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IN THE SENATE OF THE UNITED STATES

JUNE 17, 1999

Mr. COCHRAN (for himself, Mr. AKAKA, Mr. THOMPSON, Mr. LIEBERMAN, Mr. WARNER, Mr. SARBANES, Mr. LEAHY, Mr. ROBB, Mr. JEFFORDS, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

OCTOBER 8, 1999

Reported by Mr. THOMPSON, without amendment

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**A BILL**

To provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Federal Erroneous Retirement Coverage Corrections  
 4 Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.  
 Sec. 3. Applicability.  
 Sec. 4. Irrevocability of elections.

**TITLE I—DESCRIPTION OF RETIREMENT COVERAGE ERRORS TO  
 WHICH THIS ACT APPLIES AND MEASURES FOR THEIR REC-  
 TIFICATION**

Subtitle A—Employees and Annuitants Who Should Have Been FERS Cov-  
 ered, but Who Were Erroneously CSRS Covered or CSRS-Offset Covered  
 Instead, and Survivors of Such Employees and Annuitants

Sec. 101. Employees.  
 Sec. 102. Annuitants and survivors.

Subtitle B—Employee Who Should Have Been FERS Covered, CSRS-Offset  
 Covered, or CSRS Covered, but Who Was Erroneously Social Security-Only  
 Covered Instead

Sec. 111. Applicability.  
 Sec. 112. Correction mandatory.

Subtitle C—Employee Who Should or Could Have Been Social Security-Only  
 Covered but Who Was Erroneously CSRS-Offset Covered or CSRS Covered  
 Instead

Sec. 121. Employee who should be Social Security-Only covered, but who is er-  
 roneously CSRS or CSRS-Offset covered instead.

Subtitle D—Employee Who Was Erroneously FERS Covered.

Sec. 131. Employee who should be Social Security-Only covered, CSRS covered,  
 or CSRS-Offset covered and is not FERS-eligible, but who is  
 erroneously FERS covered instead.  
 Sec. 132. FERS-Eligible Employee Who Should Have Been CSRS Covered,  
 CSRS-Offset Covered, or Social Security-Only Covered, but  
 Who Was Erroneously FERS Covered Instead Without an  
 Election.  
 Sec. 133. Retroactive effect.

Subtitle E—Employee Who Should Have Been CSRS-Offset Covered, but  
 Who Was Erroneously CSRS Covered Instead

Sec. 141. Applicability.

Sec. 142. Correction mandatory.

Subtitle F—Employee Who Should Have Been CSRS Covered, but Who Was  
Erroneously CSRS-Offset Covered Instead

Sec. 151. Applicability.

Sec. 152. Correction mandatory.

## TITLE II—GENERAL PROVISIONS

Sec. 201. Identification and notification requirements.

Sec. 202. Information to be furnished to and by authorities administering this  
Act.

Sec. 203. Service credit deposits.

Sec. 204. Provisions related to Social Security coverage of misclassified employ-  
ees.

Sec. 205. Thrift Savings Plan treatment for certain individuals.

Sec. 206. Certain agency amounts to be paid into or remain in the CSRDF.

Sec. 207. CSRS coverage determinations to be approved by OPM.

Sec. 208. Discretionary actions by Director.

Sec. 209. Regulations.

## TITLE III—OTHER PROVISIONS

Sec. 301. Provisions to permit continued conformity of other Federal retire-  
ment systems.

Sec. 302. Authorization and appropriation.

Sec. 303. Individual right of action preserved for amounts not otherwise pro-  
vided for under this Act.

Sec. 304. Effective date.

## TITLE IV—TAX PROVISIONS

Sec. 401. Tax provisions.

## TITLE V—MISCELLANEOUS RETIREMENT PROVISIONS

Sec. 501. Federal Reserve Board portability of service credit.

Sec. 502. Certain transfers to be treated as a separation from service for pur-  
poses of the Thrift Savings Plan.

### 1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) ANNUITANT.—The term “annuitant” has  
4 the meaning given such term under section 8331(9)  
5 or 8401(2) of title 5, United States Code.

6 (2) CSRS.—The term “CSRS” means the Civil  
7 Service Retirement System.

1           (3) CSRDF.—The term “CSRDF” means the  
2 Civil Service Retirement and Disability Fund.

3           (4) CSRS COVERED.—The term “CSRS cov-  
4 ered”, with respect to any service, means service  
5 that is subject to the provisions of subchapter III of  
6 chapter 83 of title 5, United States Code, other than  
7 service subject to section 8334(k) of such title.

8           (5) CSRS-OFFSET COVERED.—The term  
9 “CSRS-Offset covered”, with respect to any service,  
10 means service that is subject to the provisions of  
11 subchapter III of chapter 83 of title 5, United  
12 States Code, and to section 8334(k) of such title.

13          (6) EXECUTIVE DIRECTOR.—The term “Execu-  
14 tive Director of the Federal Retirement Thrift In-  
15 vestment Board” or “Executive Director” means the  
16 Executive Director appointed under section 8474 of  
17 title 5, United States Code.

18          (7) FERS.—The term “FERS” means the  
19 Federal Employees’ Retirement System.

20          (8) FERS COVERED.—The term “FERS cov-  
21 ered”, with respect to any service, means service  
22 that is subject to chapter 84 of title 5, United States  
23 Code.

1           (9) FORMER EMPLOYEE.—The term “former  
2       employee” means an individual who formerly was a  
3       Government employee, but who is not an annuitant.

4           (10) OASDI TAXES.—The term “OASDI  
5       taxes” means the OASDI employee tax and the  
6       OASDI employer tax.

7           (11) OASDI EMPLOYEE TAX.—The term  
8       “OASDI employee tax” means the tax imposed  
9       under section 3101(a) of the Internal Revenue Code  
10      of 1986 (relating to Old-Age, Survivors and Dis-  
11      ability Insurance).

12          (12) OASDI EMPLOYER TAX.—The term  
13      “OASDI employer tax” means the tax imposed  
14      under section 3111(a) of the Internal Revenue Code  
15      of 1986 (relating to Old-Age, Survivors and Dis-  
16      ability Insurance).

17          (13) OASDI TRUST FUNDS.—The term  
18      “OASDI trust funds” means the Federal Old-Age  
19      and Survivors Insurance Trust Fund and the Fed-  
20      eral Disability Insurance Trust Fund.

21          (14) OFFICE.—The term “Office” means the  
22      Office of Personnel Management.

23          (15) RETIREMENT COVERAGE DETERMINA-  
24      TION.—The term “retirement coverage determina-  
25      tion” means a determination by an employee or

1 agent of the Government as to whether a particular  
 2 type of Government service is CSRS covered, CSRS-  
 3 Offset covered, FERS covered, or Social Security-  
 4 Only covered.

5 (16) RETIREMENT COVERAGE ERROR.—The  
 6 term “retirement coverage error” means an erro-  
 7 neous retirement coverage determination that was in  
 8 effect for a minimum period of 3 years of service  
 9 after December 31, 1986.

10 (17) SOCIAL SECURITY-ONLY COVERED.—The  
 11 term “Social Security-Only covered”, with respect to  
 12 any service, means Government service that—

13 (A) constitutes employment under section  
 14 210 of the Social Security Act (42 U.S.C. 410);  
 15 and

16 (B)(i) is subject to OASDI taxes; but  
 17 (ii) is not subject to CSRS or FERS.

18 (18) SURVIVOR.—The term “survivor” has the  
 19 meaning given such term under section 8331(10) or  
 20 8401(28) of title 5, United States Code.

21 (19) THRIFT SAVINGS FUND.—The term  
 22 “Thrift Savings Fund” means the Thrift Savings  
 23 Fund established under section 8437 of title 5,  
 24 United States Code.

1 **SEC. 3. APPLICABILITY.**

2 (a) IN GENERAL.—This Act shall apply with respect  
3 to retirement coverage errors that occur before, on, or  
4 after the date of enactment of this Act.

5 (b) LIMITATION.—Except as otherwise provided in  
6 this Act, this Act shall not apply to any erroneous retire-  
7 ment coverage determination that was in effect for a pe-  
8 riod of less than 3 years of service after December 31,  
9 1986.

10 **SEC. 4. IRREVOCABILITY OF ELECTIONS.**

11 Any election made (or deemed to have been made)  
12 by an employee or any other individual under this Act  
13 shall be irrevocable.



1 **TITLE I—DESCRIPTION OF RE-**  
 2 **TIREMENT COVERAGE ER-**  
 3 **RORS TO WHICH THIS ACT AP-**  
 4 **PLIES AND MEASURES FOR**  
 5 **THEIR RECTIFICATION**

6 **Subtitle A—Employees and Annu-**  
 7 **itants Who Should Have Been**  
 8 **FERS Covered, but Who Were**  
 9 **Erroneously CSRS Covered or**  
 10 **CSRS-Offset Covered Instead,**  
 11 **and Survivors of Such Employ-**  
 12 **ees and Annuitants**

13 **SEC. 101. EMPLOYEES.**

14 (a) **APPLICABILITY.**—This section shall apply in the  
 15 case of any employee or former employee who should be  
 16 (or should have been) FERS covered but, as a result of  
 17 a retirement coverage error, is (or was) CSRS covered or  
 18 CSRS-Offset covered instead.

19 (b) **UNCORRECTED ERROR.**—

20 (1) **APPLICABILITY.**—This subsection applies if  
 21 the retirement coverage error has not been corrected  
 22 before the effective date of the regulations described  
 23 under paragraph (3). As soon as practicable after  
 24 discovery of the error, and subject to the right of an  
 25 election under paragraph (2), if CSRS covered or

1 CSRS-Offset covered, such individual shall be treat-  
2 ed as CSRS-Offset covered, retroactive to the date  
3 of the retirement coverage error.

4 (2) COVERAGE.—

5 (A) ELECTION.—Upon written notice of a  
6 retirement coverage error, an individual may  
7 elect to be CSRS-Offset covered or FERS cov-  
8 ered, effective as of the date of the retirement  
9 coverage error. Such election shall be made not  
10 later than 180 days after the date of receipt of  
11 such notice.

12 (B) NONELECTION.—If the individual does  
13 not make an election by the date provided  
14 under subparagraph (A), a CSRS-Offset cov-  
15 ered individual shall remain CSRS-Offset cov-  
16 ered and a CSRS covered individual shall be  
17 treated as CSRS-Offset covered.

18 (3) REGULATIONS.—The Office shall promul-  
19 gate regulations to carry out this subsection.

20 (c) CORRECTED ERROR.—

21 (1) APPLICABILITY.—This subsection applies if  
22 the retirement coverage error was corrected before  
23 the effective date of the regulations described under  
24 subsection (b).

25 (2) COVERAGE.—

1 (A) ELECTION.—

2 (i) CSRS-OFFSET COVERED.—Not  
3 later than 180 days after the date of en-  
4 actment of this Act, the Office shall pro-  
5 mulgate regulations authorizing individuals  
6 to elect, during the 18-month period imme-  
7 diately following the effective date of such  
8 regulations, to be CSRS-Offset covered, ef-  
9 fective as of the date of the retirement cov-  
10 erage error.

11 (ii) THRIFT SAVINGS FUND CON-  
12 TRIBUTIONS.—If an individual elects to be  
13 CSRS-Offset covered, all employee con-  
14 tributions to the Thrift Savings Fund  
15 made during the period of FERS coverage,  
16 and earnings thereon, may remain in that  
17 Fund, notwithstanding any limit that  
18 would otherwise be applicable.

19 (B) PREVIOUS SETTLEMENT PAYMENT.—

20 An individual who previously received a pay-  
21 ment ordered by a court or provided as a settle-  
22 ment of claim for losses resulting from a retire-  
23 ment coverage error shall not be entitled to  
24 make an election under this subsection unless  
25 that amount is waived in whole or in part under

1 section 208, and any amount not waived is re-  
2 paid.

3 (C) INELIGIBILITY FOR ELECTION.—An  
4 individual who, subsequent to correction of the  
5 retirement coverage error, received a refund of  
6 retirement deductions under section 8424 of  
7 title 5, United States Code, or a distribution  
8 under section 8433 of title 5, United States  
9 Code, may not make an election under this sub-  
10 section.

11 (3) CORRECTIVE ACTION TO REMAIN IN EF-  
12 FECT.—If an individual is ineligible to make an elec-  
13 tion or does not make an election under paragraph  
14 (2) before the end of any time limitation under this  
15 subsection, the corrective action taken before such  
16 time limitation shall remain in effect.

17 **SEC. 102. ANNUITANTS AND SURVIVORS.**

18 (a) IN GENERAL.—This section shall apply in the  
19 case of an individual who is—

20 (1) an annuitant who should have been FERS  
21 covered but, as a result of a retirement coverage  
22 error, was CSRS covered or CSRS-Offset covered in-  
23 stead; or

24 (2) a survivor of an employee who should have  
25 been FERS covered but, as a result of a retirement

1 coverage error, was CSRS covered or CSRS-Offset  
2 covered instead.

3 (b) COVERAGE.—

4 (1) ELECTION.—Not later than 180 days after  
5 the date of enactment of this Act, the Office shall  
6 promulgate regulations authorizing an individual de-  
7 scribed under subsection (a) to elect CSRS-Offset  
8 coverage or FERS coverage, effective as of the date  
9 of the retirement coverage error.

10 (2) TIME LIMITATION.—An election under this  
11 subsection shall be made not later than 18 months  
12 after the effective date of the regulations promul-  
13 gated under paragraph (1).

14 (3) REDUCED ANNUITY.—

15 (A) AMOUNT IN ACCOUNT.—If the indi-  
16 vidual elects CSRS-Offset coverage, the amount  
17 in the employee's Thrift Savings Fund account  
18 under subchapter III of chapter 84 of title 5,  
19 United States Code, on the date of retirement  
20 that represents the Government's contributions  
21 and earnings on those contributions (whether or  
22 not such amount was subsequently distributed  
23 from the Thrift Savings Fund) will form the  
24 basis for a reduction in the individual's annuity,  
25 under regulations promulgated by the Office.

1 (B) REDUCTION.—The reduced annuity to  
 2 which the individual is entitled shall be equal to  
 3 an amount which, when taken together with the  
 4 amount referred to in subparagraph (A), would  
 5 result in the present value of the total being ac-  
 6 tuarily equivalent to the present value of an  
 7 unreduced CSRS-Offset annuity that would  
 8 have been provided the individual.

9 (4) REDUCED BENEFIT.—If—

10 (A) a surviving spouse elects CSRS-Offset  
 11 benefits; and

12 (B) a FERS basic employee death benefit  
 13 under section 8442(b) of title 5, United States  
 14 Code, was previously paid;

15 then the survivor's CSRS-Offset benefit shall be sub-  
 16 ject to a reduction, under regulations promulgated  
 17 by the Office. The reduced annuity to which the in-  
 18 dividual is entitled shall be equal to an amount  
 19 which, when taken together with the amount of the  
 20 payment referred to under subparagraph (B) would  
 21 result in the present value of the total being actuari-  
 22 ally equivalent to the present value of an unreduced  
 23 CSRS-Offset annuity that would have been provided  
 24 the individual.

1           (5) PREVIOUS SETTLEMENT PAYMENT.—An in-  
2       dividual who previously received a payment ordered  
3       by a court or provided as a settlement of claim for  
4       losses resulting from a retirement coverage error  
5       may not make an election under this subsection un-  
6       less repayment of that amount is waived in whole or  
7       in part under section 208, and any amount not  
8       waived is repaid.

9       (c) NONELECTION.—If the individual does not make  
10     an election under subsection (b) before any time limitation  
11     under this section, the retirement coverage shall be subject  
12     to the following rules:

13           (1) CORRECTIVE ACTION PREVIOUSLY  
14     TAKEN.—If corrective action was taken before the  
15     end of any time limitation under this section, that  
16     corrective action shall remain in effect.

17           (2) CORRECTIVE ACTION NOT PREVIOUSLY  
18     TAKEN.—If corrective action was not taken before  
19     such time limitation, the employee shall be CSRS-  
20     Offset covered, retroactive to the date of the retire-  
21     ment coverage error.

1 **Subtitle B—Employee Who Should**  
 2 **Have Been FERS Covered,**  
 3 **CSRS-Offset Covered, or CSRS**  
 4 **Covered, but Who Was Erro-**  
 5 **neously Social Security-Only**  
 6 **Covered Instead**

7 **SEC. 111. APPLICABILITY.**

8 This subtitle shall apply in the case of any employee  
 9 who—

10 (1) should be (or should have been) FERS cov-  
 11 ered but, as a result of a retirement coverage error,  
 12 is (or was) Social Security-Only covered instead;

13 (2) should be (or should have been) CSRS-Off-  
 14 set covered but, as a result of a retirement coverage  
 15 error, is (or was) Social Security-Only covered in-  
 16 stead; or

17 (3) should be (or should have been) CSRS cov-  
 18 ered but, as a result of a retirement coverage error,  
 19 is (or was) Social Security-Only covered instead.

20 **SEC. 112. CORRECTION MANDATORY.**

21 (a) **UNCORRECTED ERROR.**—If the retirement cov-  
 22 erage error has not been corrected, as soon as practicable  
 23 after discovery of the error, such individual shall be cov-  
 24 ered under the correct retirement coverage, effective as of  
 25 the date of the retirement coverage error.



1 (b) CORRECTED ERROR.—If the retirement coverage  
 2 error has been corrected, the corrective action previously  
 3 taken shall remain in effect.

4 **Subtitle C—Employee Who Should**  
 5 **or Could Have Been Social Se-**  
 6 **curity-Only Covered but Who**  
 7 **Was Erroneously CSRS-Offset**  
 8 **Covered or CSRS Covered In-**  
 9 **stead**

10 **SEC. 121. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY-**  
 11 **ONLY COVERED, BUT WHO IS ERRONEOUSLY**  
 12 **CSRS OR CSRS-OFFSET COVERED INSTEAD.**

13 (a) APPLICABILITY.—This section applies in the case  
 14 of a retirement coverage error in which a Social Security-  
 15 Only covered employee was erroneously CSRS covered or  
 16 CSRS-Offset covered.

17 (b) UNCORRECTED ERROR.—

18 (1) APPLICABILITY.—This subsection applies if  
 19 the retirement coverage error has not been corrected  
 20 before the effective date of the regulations described  
 21 in paragraph (3).

22 (2) COVERAGE.—In the case of an individual  
 23 who is erroneously CSRS covered, as soon as prac-  
 24 ticable after discovery of the error, and subject to  
 25 the right of an election under paragraph (3), such

1 individual shall be CSRS-Offset covered, effective as  
2 of the date of the retirement coverage error.

3 (3) ELECTION.—

4 (A) IN GENERAL.—Upon written notice of  
5 a retirement coverage error, an individual may  
6 elect to be CSRS-Offset covered or Social Secu-  
7 rity-Only covered, effective as of the date of the  
8 retirement coverage error. Such election shall  
9 be made not later than 180 days after the date  
10 of receipt of such notice.

11 (B) NONELECTION.—If the individual does  
12 not make an election before the date provided  
13 under subparagraph (A), the individual shall re-  
14 main CSRS-Offset covered.

15 (C) REGULATIONS.—The Office shall pro-  
16 mulgate regulations to carry out this para-  
17 graph.

18 (c) CORRECTED ERROR.—

19 (1) APPLICABILITY.—This subsection applies if  
20 the retirement coverage error was corrected before  
21 the effective date of the regulations described under  
22 subsection (b)(3).

23 (2) ELECTION.—Not later than 180 days after  
24 the date of enactment of this Act, the Office shall  
25 promulgate regulations authorizing individuals to

elect, during the 18-month period immediately following the effective date of such regulations, to be CSRS-Offset covered or Social Security-Only covered, effective as of the date of the retirement coverage error.

(3) NONELECTION.—If an eligible individual does not make an election under paragraph (2) before the end of any time limitation under this subsection, the corrective action taken before such time limitation shall remain in effect.

## **Subtitle D—Employee Who Was Erroneously FERS Covered**

### **SEC. 131. EMPLOYEE WHO SHOULD BE SOCIAL SECURITY- ONLY COVERED, CSRS COVERED, OR CSRS- OFFSET COVERED AND IS NOT FERS-ELIGI- BLE, BUT WHO IS ERRONEOUSLY FERS COV- ERED INSTEAD.**

(a) APPLICABILITY.—This section applies in the case of a retirement coverage error in which a Social Security-Only covered, CSRS covered, or CSRS-Offset covered employee not eligible to elect FERS coverage under authority of section 8402(c) of title 5, United States Code, was erroneously FERS covered.

(b) UNCORRECTED ERROR.—

1           (1) APPLICABILITY.—This subsection applies if  
2           the retirement coverage error has not been corrected  
3           before the effective date of the regulations described  
4           in paragraph (2).

5           (2) COVERAGE.—

6                 (A) ELECTION.—Upon written notice of a  
7                 retirement coverage error, an individual may  
8                 elect to remain FERS covered or to be Social  
9                 Security-Only covered, CSRS covered, or  
10                CSRS-Offset covered, as would have applied in  
11                the absence of the erroneous retirement cov-  
12                erage determination, effective as of the date of  
13                the retirement coverage error. Such election  
14                shall be made not later than 180 days after the  
15                date of receipt of such notice.

16               (B) NONELECTION.—If the individual does  
17                not make an election before the date provided  
18                under subparagraph (A), the individual shall re-  
19                main FERS covered, effective as of the date of  
20                the retirement coverage error.

21           (3) EMPLOYEE CONTRIBUTIONS IN THRIFT SAV-  
22           INGS FUND.—If under this section, an individual  
23           elects to be Social Security-Only covered, CSRS cov-  
24           ered, or CSRS-Offset covered, all employee contribu-  
25           tions to the Thrift Savings Fund made during the

1 period of erroneous FERS coverage (and all earn-  
2 ings on such contributions) may remain in the  
3 Thrift Savings Fund in accordance with regulations  
4 promulgated by the Executive Director, notwith-  
5 standing any limit under section 8351 or 8432 of  
6 title 5, United States Code.

7 (4) REGULATIONS.—Except as provided under  
8 paragraph (3), the Office shall promulgate regula-  
9 tions to carry out this subsection.

10 (c) CORRECTED ERROR.—

11 (1) APPLICABILITY.—This subsection applies if  
12 the retirement coverage error was corrected before  
13 the effective date of the regulations described under  
14 paragraph (2).

15 (2) ELECTION.—Not later than 180 days after  
16 the date of enactment of this Act, the Office shall  
17 promulgate regulations authorizing individuals to  
18 elect, during the 18-month period immediately fol-  
19 lowing the effective date of such regulations to re-  
20 main Social Security-Only covered, CSRS covered,  
21 or CSRS-Offset covered, or to be FERS covered, ef-  
22 fective as of the date of the retirement coverage  
23 error.

24 (3) NONELECTION.—If an eligible individual  
25 does not make an election under paragraph (2), the

1        corrective action before the end of any time limita-  
 2        tion under this subsection shall remain in effect.

3    **SEC. 132. FERS-ELIGIBLE EMPLOYEE WHO SHOULD HAVE**  
 4                    **BEEN CSRS COVERED, CSRS-OFFSET COV-**  
 5                    **ERED, OR SOCIAL SECURITY-ONLY COVERED,**  
 6                    **BUT WHO WAS ERRONEOUSLY FERS COV-**  
 7                    **ERED INSTEAD WITHOUT AN ELECTION.**

8        (a) IN GENERAL.—

9            (1) FERS ELECTION PREVENTED.—If an indi-  
 10        vidual was prevented from electing FERS coverage  
 11        because the individual was erroneously FERS cov-  
 12        ered during the period when the individual was eligi-  
 13        ble to elect FERS under title III of the Federal Em-  
 14        ployees Retirement System Act or the Federal Em-  
 15        ployees' Retirement System Open Enrollment Act of  
 16        1997 (Public Law 105–61; 111 Stat. 1318 et seq.),  
 17        the individual—

18            (A) is deemed to have elected FERS cov-  
 19        erage; and

20            (B) shall remain covered by FERS, unless  
 21        the individual declines, under regulations pro-  
 22        mulgated by the Office, to be FERS covered.

23        (2) DECLINING FERS COVERAGE.—If an indi-  
 24        vidual described under paragraph (1)(B) declines to  
 25        be FERS covered, such individual shall be CSRS

1 covered, CSRS-Offset covered, or Social Security-  
 2 Only covered, as would apply in the absence of a  
 3 FERS election, effective as of the date of the erro-  
 4 neous retirement coverage determination.

5 (b) EMPLOYEE CONTRIBUTIONS IN THRIFT SAVINGS  
 6 FUND.—If under this section, an individual declines to be  
 7 FERS covered and instead is Social Security-Only cov-  
 8 ered, CSRS covered, or CSRS-Offset covered, as would  
 9 apply in the absence of a FERS election, all employee con-  
 10 tributions to the Thrift Savings Fund made during the  
 11 period of erroneous FERS coverage (and all earnings on  
 12 such contributions) may remain in the Thrift Savings  
 13 Fund in accordance with regulations promulgated by the  
 14 Executive Director, notwithstanding any limit that would  
 15 otherwise be applicable.

16 (c) INAPPLICABILITY OF DURATION OF ERRONEOUS  
 17 COVERAGE.—This section shall apply regardless of the  
 18 length of time the erroneous coverage determination re-  
 19 mained in effect.

20 **SEC. 133. RETROACTIVE EFFECT.**

21 This subtitle shall be effective as of January 1, 1987,  
 22 except that section 132 shall not apply to individuals who  
 23 made or were deemed to have made elections similar to  
 24 those provided in this section under regulations promul-  
 25 gated by the Office before the effective date of this Act.

1 **Subtitle E—Employee Who Should**  
2 **Have Been CSRS-Offset Cov-**  
3 **ered, but Who Was Erroneously**  
4 **CSRS Covered Instead**

5 **SEC. 141. APPLICABILITY.**

6 This subtitle shall apply in the case of any employee  
7 who should be (or should have been) CSRS-Offset covered  
8 but, as a result of a retirement coverage error, is (or was)  
9 CSRS covered instead.

10 **SEC. 142. CORRECTION MANDATORY.**

11 (a) **UNCORRECTED ERROR.**—If the retirement cov-  
12 erage error has not been corrected, as soon as practicable  
13 after discovery of the error, such individual shall be cov-  
14 ered under the correct retirement coverage, effective as of  
15 the date of the retirement coverage error.

16 (b) **CORRECTED ERROR.**—If the retirement coverage  
17 error has been corrected before the effective date of this  
18 Act, the corrective action taken before such date shall re-  
19 main in effect.



1 **Subtitle F—Employee Who Should**  
2 **Have Been CSRS Covered, but**  
3 **Who Was Erroneously CSRS-Off-**  
4 **set Covered Instead**

5 **SEC. 151. APPLICABILITY.**

6 This subtitle shall apply in the case of any employee  
7 who should be (or should have been) CSRS covered but,  
8 as a result of a retirement coverage error, is (or was)  
9 CSRS-Offset covered instead.

10 **SEC. 152. CORRECTION MANDATORY.**

11 (a) **UNCORRECTED ERROR.**—If the retirement cov-  
12 erage error has not been corrected, as soon as practicable  
13 after discovery of the error, such individual shall be cov-  
14 ered under the correct retirement coverage, effective as of  
15 the date of the retirement coverage error.

16 (b) **CORRECTED ERROR.**—If the retirement coverage  
17 error has been corrected before the effective date of this  
18 Act, the corrective action taken before such date shall re-  
19 main in effect.

20 **TITLE II—GENERAL PROVISIONS**

21 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-**  
22 **MENTS.**

23 Government agencies shall take all such measures as  
24 may be reasonable and appropriate to promptly identify

1 and notify individuals who are (or have been) affected by  
2 a retirement coverage error of their rights under this Act.

3 **SEC. 202. INFORMATION TO BE FURNISHED TO AND BY AU-**  
4 **THORITIES ADMINISTERING THIS ACT.**

5 (a) **APPLICABILITY.**—The authorities identified in  
6 this subsection are—

7 (1) the Director of the Office of Personnel  
8 Management;

9 (2) the Commissioner of Social Security; and

10 (3) the Executive Director of the Federal Re-  
11 tirement Thrift Investment Board.

12 (b) **AUTHORITY TO OBTAIN INFORMATION.**—Each  
13 authority identified in subsection (a) may secure directly  
14 from any department or agency of the United States infor-  
15 mation necessary to enable such authority to carry out its  
16 responsibilities under this Act. Upon request of the au-  
17 thority involved, the head of the department or agency in-  
18 volved shall furnish that information to the requesting au-  
19 thority.

20 (c) **AUTHORITY TO PROVIDE INFORMATION.**—Each  
21 authority identified in subsection (a) may provide directly  
22 to any department or agency of the United States all in-  
23 formation such authority believes necessary to enable the  
24 department or agency to carry out its responsibilities  
25 under this Act.

1 (d) LIMITATION; SAFEGUARDS.—Each of the respec-  
 2 tive authorities under subsection (a) shall—

3 (1) request or provide only such information as  
 4 that authority considers necessary; and

5 (2) establish, by regulation or otherwise, appro-  
 6 priate safeguards to ensure that any information ob-  
 7 tained under this section shall be used only for the  
 8 purpose authorized.

9 **SEC. 203. SERVICE CREDIT DEPOSITS.**

10 (a) CSRS DEPOSIT.—In the case of a retirement cov-  
 11 erage error in which—

12 (1) a FERS covered employee was erroneously  
 13 CSRS covered or CSRS-Offset covered;

14 (2) the employee made a service credit deposit  
 15 under the CSRS rules; and

16 (3) there is a subsequent retroactive change to  
 17 FERS coverage;

18 the excess of the amount of the CSRS civilian or military  
 19 service credit deposit over the FERS civilian or military  
 20 service credit deposit, together with interest computed in  
 21 accordance with paragraphs (2) and (3) of section 8334(e)  
 22 of title 5, United States Code, and regulations prescribed  
 23 by the Office, shall be paid to the employee, the annuitant  
 24 or, in the case of a deceased employee, to the individual

1 entitled to lump-sum benefits under section 8342(c) or  
 2 8424(d) of title 5, United States Code, as applicable.

3 (b) FERS DEPOSIT.—

4 (1) APPLICABILITY.—This subsection applies in  
 5 the case of an erroneous retirement coverage deter-  
 6 mination in which—

7 (A) the employee owed a service credit de-  
 8 posit under section 8411(f) of title 5, United  
 9 States Code; and

10 (B)(i) there is a subsequent retroactive  
 11 change to CSRS or CSRS-Offset coverage; or

12 (ii) the service becomes creditable under  
 13 chapter 83 of title 5, United States Code.

14 (2) REDUCED ANNUITY.—

15 (A) IN GENERAL.—If at the time of com-  
 16 mencement of an annuity there is remaining  
 17 unpaid CSRS civilian or military service credit  
 18 deposit for service described under paragraph  
 19 (1), the annuity shall be reduced based upon  
 20 the amount unpaid together with interest com-  
 21 puted in accordance with section 8334(e) (2)  
 22 and (3) of title 5, United States Code, and reg-  
 23 ulations prescribed by the Office.

24 (B) AMOUNT.—The reduced annuity to  
 25 which the individual is entitled shall be equal to

1 an amount that, when taken together with the  
2 amount referred to under subparagraph (A),  
3 would result in the present value of the total  
4 being actuarially equivalent to the present value  
5 of the unreduced annuity benefit that would  
6 have been provided the individual.

7 (3) SURVIVOR ANNUITY.—

8 (A) IN GENERAL.—If at the time of com-  
9 mencement of a survivor annuity, there is re-  
10 maining unpaid any CSRS service credit de-  
11 posit described under paragraph (1), and there  
12 has been no actuarial reduction in an annuity  
13 under paragraph (2), the survivor annuity shall  
14 be reduced based upon the amount unpaid to-  
15 gether with interest computed in accordance  
16 with section 8334(e) (2) and (3) of title 5,  
17 United States Code, and regulations prescribed  
18 by the Office.

19 (B) AMOUNT.—The reduced survivor an-  
20 nuity to which the individual is entitled shall be  
21 equal to an amount that, when taken together  
22 with the amount referred to under subpara-  
23 graph (A), would result in the present value of  
24 the total being actuarially equivalent to the  
25 present value of an unreduced survivor annuity

1 benefit that would have been provided the indi-  
2 vidual.

3 **SEC. 204. PROVISIONS RELATED TO SOCIAL SECURITY COV-**  
4 **ERAGE OF MISCLASSIFIED EMPLOYEES.**

5 (a) DEFINITIONS.—In this section, the term—

6 (1) “covered individual” means any employee,  
7 former employee, or annuitant who—

8 (A) is or was employed erroneously subject  
9 to CSRS coverage as a result of a retirement  
10 coverage error; and

11 (B) is or was retroactively converted to  
12 CSRS-offset coverage, FERS coverage, or So-  
13 cial Security-only coverage; and

14 (2) “excess CSRS deduction amount” means an  
15 amount equal to the difference between the CSRS  
16 deductions withheld and the CSRS-Offset or FERS  
17 deductions, if any, due with respect to a covered in-  
18 dividual during the entire period the individual was  
19 erroneously subject to CSRS coverage as a result of  
20 a retirement coverage error.

21 (b) REPORTS TO COMMISSIONER OF SOCIAL SECU-  
22 RITY.—

23 (1) IN GENERAL.—In order to carry out the  
24 Commissioner of Social Security’s responsibilities  
25 under title II of the Social Security Act, the Com-

1       missioner may request the head of each agency that  
 2       employs or employed a covered individual to report  
 3       (in coordination with the Office of Personnel Man-  
 4       agement) in such form and within such timeframe as  
 5       the Commissioner may specify, any or all of—

6               (A) the total wages (as defined in section  
 7       3121(a) of the Internal Revenue Code of 1986)  
 8       paid to such individual during each year of the  
 9       entire period of the erroneous CSRS coverage;  
 10       and

11              (B) such additional information as the  
 12       Commissioner may require for the purpose of  
 13       carrying out the Commissioner's responsibilities  
 14       under title II of the Social Security Act (42  
 15       U.S.C. 401 et seq.).

16       (2) COMPLIANCE.—The head of an agency or  
 17       the Office shall comply with a request from the  
 18       Commissioner under paragraph (1).

19       (3) WAGES.—For purposes of section 201 of  
 20       the Social Security Act (42 U.S.C. 401), wages re-  
 21       ported under this subsection shall be deemed to be  
 22       wages reported to the Secretary of the Treasury or  
 23       the Secretary's delegates pursuant to subtitle F of  
 24       the Internal Revenue Code of 1986.

1       (c) PAYMENT RELATING TO OASDI EMPLOYEE  
2 TAXES.—

3           (1) IN GENERAL.— The Director of the Office  
4 of Personnel Management shall transfer from the  
5 Civil Service Retirement and Disability Fund to the  
6 OASDI trust funds an amount equal to the excess  
7 CSRS deduction amount for covered individuals (as  
8 adjusted by amounts transferred relating to applica-  
9 ble OASDI employee taxes as a result of corrections  
10 made, including corrections made before the date of  
11 enactment of this Act).

12          (2) TRANSFER.—Amounts transferred under  
13 this subsection—

14           (A) shall be deposited in the OASDI trust  
15 funds in the proportions indicated under section  
16 201 (a) and (b) of the Social Security Act (42  
17 U.S.C. 401 (a) and (b)); and

18           (B) shall be determined notwithstanding  
19 any limitation under section 6501 of the Inter-  
20 nal Revenue Code of 1986.

21       (d) PAYMENT OF OASDI EMPLOYER TAXES.—

22           (1) IN GENERAL.—Each employing agency shall  
23 pay into the OASDI trust funds an amount equal to  
24 OASDI employer taxes owed with respect to covered  
25 individuals during the applicable period of erroneous



1 coverage (as adjusted by amounts transferred for  
 2 the payment of such taxes as a result of corrections  
 3 made, including corrections made before the date of  
 4 enactment of this Act).

5 (2) TRANSFER.—Amounts transferred under  
 6 this subsection—

7 (A) shall be deposited in the OASDI trust  
 8 funds in the proportions indicated under section  
 9 201 (a) and (b) of the Social Security Act (42  
 10 U.S.C. 401 (a) and (b)); and

11 (B) shall be determined subject to any lim-  
 12 itation under section 6501 of the Internal Rev-  
 13 enue Code of 1986.

14 (e) APPLICATION OF OASDI TAX PROVISIONS OF  
 15 THE INTERNAL REVENUE CODE OF 1986 TO AFFECTED  
 16 INDIVIDUALS AND EMPLOYING AGENCIES.—A covered in-  
 17 dividual and the individual's employing agency shall be  
 18 deemed to have fully satisfied in a timely manner their  
 19 responsibilities with respect to the taxes imposed by sec-  
 20 tions 3101(a), 3102(a), and 3111(a) of the Internal Rev-  
 21 enue Code of 1986 on the wages paid by the employing  
 22 agency to such individual during the entire period such  
 23 individual was erroneously subject to CSRS coverage as  
 24 a result of a retirement coverage error. No credit or refund

1 of taxes on such wages shall be allowed as a result of this  
 2 subsection.

3 **SEC. 205. THRIFT SAVINGS PLAN TREATMENT FOR CER-**  
 4 **TAIN INDIVIDUALS.**

5 (a) **APPLICABILITY.**—This section applies to an indi-  
 6 vidual who—

7 (1) is eligible to make an election of coverage  
 8 under section 101 or 102, and only if FERS cov-  
 9 erage is elected (or remains in effect) for the em-  
 10 ployee involved;

11 (2) is described in section 111; or

12 (3) is a former employee, annuitant, or survivor  
 13 (subject to conditions similar to those in sections  
 14 101 and 102) in the case of a retirement coverage  
 15 error in which a FERS covered employee was erro-  
 16 neously Social Security-Only covered and is cor-  
 17 rected to FERS coverage.

18 (b) **PAYMENT INTO THRIFT SAVINGS FUND.**—

19 (1) **IN GENERAL.**—

20 (A) **PAYMENT.**—With respect to an indi-  
 21 vidual to whom this section applies, the employ-  
 22 ing agency shall pay to the Thrift Savings  
 23 Fund under subchapter III of chapter 84 of  
 24 title 5, United States Code, for credit to the ac-  
 25 count of the employee involved, an amount

1 equal to the earnings which are disallowed  
2 under section 8432a of such title on the em-  
3 ployee's retroactive contributions to such Fund.

4 (B) AMOUNT.—The amount paid under  
5 subparagraph (A) shall represent earnings, on  
6 such retroactive contributions, during the pe-  
7 riod of the retirement coverage error and con-  
8 tinuing through the date on which the amount  
9 is paid by the employing agency (and based on  
10 distributions from the employee's Thrift Sav-  
11 ings Plan account).

12 (C) EARNINGS.—Earnings under subpara-  
13 graph (B) shall be computed in accordance with  
14 the procedures for computing lost earnings  
15 under section 8432a of title 5, United States  
16 Code. The amount paid by the employing agen-  
17 cy shall be treated for all purposes as if that  
18 amount had actually been earned on the basis  
19 of the employee's contributions.

20 (2) ADDITIONAL EMPLOYEE CONTRIBUTION.—  
21 In cases in which the retirement coverage error was  
22 corrected before the effective date of the regulations  
23 under section 101(c), the employee involved (includ-  
24 ing an employee described in subsection (a)(2)) shall  
25 have an additional opportunity to make retroactive

1 contributions for the period of the retirement cov-  
 2 erage error (subject to applicable limits), and such  
 3 contributions (including any contributions made  
 4 after the date of the correction) shall be treated in  
 5 accordance with paragraph (1).

6 (c) REGULATIONS.—The Office, in consultation with  
 7 the Federal Retirement Thrift Investment Board, shall  
 8 prescribe regulations appropriate to carry out this section.

9 **SEC. 206. CERTAIN AGENCY AMOUNTS TO BE PAID INTO OR**  
 10 **REMAIN IN THE CSRDF.**

11 (a) CERTAIN EXCESS AGENCY CONTRIBUTIONS TO  
 12 REMAIN IN THE CSRDF.—

13 (1) IN GENERAL.—Any amount described under  
 14 paragraph (2) shall—

15 (A) remain in the CSRDF; and

16 (B) may not be paid or credited to an  
 17 agency.

18 (2) AMOUNTS.—Paragraph (1) refers to any  
 19 amount of contributions made by an agency under  
 20 section 8423 of title 5, United States Code, on be-  
 21 half of any employee, former employee, or annuitant  
 22 (or survivor of such employee, former employee, or  
 23 annuitant) who makes an election to correct a retire-  
 24 ment coverage error under this Act, that the Office  
 25 determines to be excess as a result of such election.

1 (b) ADDITIONAL EMPLOYEE RETIREMENT DEDUC-  
 2 TIONS TO BE PAID BY AGENCY.—If a correction in a re-  
 3 tirement coverage error results in an increase in employee  
 4 deductions under section 8334 or 8422 of title 5, United  
 5 States Code, that cannot be fully paid by a reallocation  
 6 of otherwise available amounts previously deducted from  
 7 the employee’s pay as employment taxes or retirement de-  
 8 ductions, the employing agency—

9 (1) shall pay the required additional amount  
 10 into the CSRDF; and

11 (2) shall not seek repayment of that amount  
 12 from the employee, former employee, annuitant, or  
 13 survivor.

14 **SEC. 207. CSRS COVERAGE DETERMINATIONS TO BE AP-**  
 15 **PROVED BY OPM.**

16 No agency shall place an individual under CSRS cov-  
 17 erage unless—

18 (1) the individual has been employed with  
 19 CSRS coverage within the preceding 365 days; or

20 (2) the Office has agreed in writing that the  
 21 agency’s coverage determination is correct.

22 **SEC. 208. DISCRETIONARY ACTIONS BY DIRECTOR.**

23 (a) IN GENERAL.—The Director of the Office of Per-  
 24 sonnel Management may—

1           (1) extend the deadlines for making elections  
2           under this Act in circumstances involving an individ-  
3           ual's inability to make a timely election due to a  
4           cause beyond the individual's control;

5           (2) provide for the reimbursement of necessary  
6           and reasonable expenses incurred by an individual  
7           with respect to settlement of a claim for losses re-  
8           sulting from a retirement coverage error, including  
9           attorney's fees, court costs, and other actual ex-  
10          penses;

11          (3) compensate an individual for monetary  
12          losses that are a direct and proximate result of a re-  
13          tirement coverage error, excluding claimed losses re-  
14          lating to forgone contributions and earnings under  
15          the Thrift Savings Plan under subchapter III of  
16          chapter 84 of title 5, United States Code, and all  
17          other investment opportunities; and

18          (4) waive repayments otherwise required under  
19          this Act.

20          (b) SIMILAR ACTIONS.—In exercising the authority  
21          under this section, the Director shall, to the extent prac-  
22          ticable, provide for similar actions in situations involving  
23          similar circumstances.

1       (c) JUDICIAL REVIEW.—Actions taken under this  
 2 section are final and conclusive, and are not subject to  
 3 administrative or judicial review.

4       (d) REGULATIONS.—The Office of Personnel Man-  
 5 agement shall prescribe regulations regarding the process  
 6 and criteria used in exercising the authority under this  
 7 section.

8       (e) REPORT.—The Office of Personnel Management  
 9 shall, not later than 180 days after the date of enactment  
 10 of this Act, and annually thereafter for each year in which  
 11 the authority provided in this section is used, submit a  
 12 report to each House of Congress on the operation of this  
 13 section.

14 **SEC. 209. REGULATIONS.**

15       (a) IN GENERAL.—In addition to the regulations spe-  
 16 cifically authorized in this Act, the Office may prescribe  
 17 such other regulations as are necessary for the administra-  
 18 tion of this Act.

19       (b) FORMER SPOUSE.—The regulations prescribed  
 20 under this Act shall provide for protection of the rights  
 21 of a former spouse with entitlement to an apportionment  
 22 of benefits or to survivor benefits based on the service of  
 23 the employee.

1     **TITLE III—OTHER PROVISIONS**

2     **SEC. 301. PROVISIONS TO PERMIT CONTINUED CON-**  
3                   **FORMITY OF OTHER FEDERAL RETIREMENT**  
4                   **SYSTEMS.**

5           (a) FOREIGN SERVICE.—Sections 827 and 851 of the  
6 Foreign Service Act of 1980 (22 U.S.C. 4067 and 4071)  
7 shall apply with respect to this Act in the same manner  
8 as if this Act were part of—

9               (1) the Civil Service Retirement System, to the  
10           extent this Act relates to the Civil Service Retire-  
11           ment System; and

12               (2) the Federal Employees' Retirement System,  
13           to the extent this Act relates to the Federal Employ-  
14           ees' Retirement System.

15           (b) CENTRAL INTELLIGENCE AGENCY.—Sections  
16 292 and 301 of the Central Intelligence Agency Retire-  
17 ment Act (50 U.S.C. 2141 and 2151) shall apply with re-  
18 spect to this Act in the same manner as if this Act were  
19 part of—

20               (1) the Civil Service Retirement System, to the  
21           extent this Act relates to the Civil Service Retire-  
22           ment System; and

23               (2) the Federal Employees' Retirement System,  
24           to the extent this Act relates to the Federal Employ-  
25           ees' Retirement System.



1 **SEC. 302. AUTHORIZATION AND APPROPRIATION.**

2 All payments permitted or required by this Act to be  
3 paid from the Civil Service Retirement and Disability  
4 Fund, together with administrative expenses incurred by  
5 the Office in administering this Act, shall be deemed to  
6 have been authorized to be paid from that Fund, which  
7 is appropriated for the payment thereof.

8 **SEC. 303. INDIVIDUAL RIGHT OF ACTION PRESERVED FOR**  
9 **AMOUNTS NOT OTHERWISE PROVIDED FOR**  
10 **UNDER THIS ACT.**

11 Nothing in this Act shall preclude an individual from  
12 bringing a claim against the Government of the United  
13 States which such individual may have under section  
14 1346(b) or chapter 171 of title 28, United States Code,  
15 or any other provision of law (except to the extent the  
16 claim is for any amounts otherwise provided for under this  
17 Act).

18 **SEC. 304. EFFECTIVE DATE.**

19 Except as otherwise provided in this Act, this Act  
20 shall take effect on the date of enactment of this Act.

21 **TITLE IV—TAX PROVISIONS**

22 **SEC. 401. TAX PROVISIONS.**

23 (a) **PLAN QUALIFICATION.**—No retirement plan of  
24 the United States (or any agency thereof) shall fail to be  
25 treated as a qualified plan under the Internal Revenue

1 Code of 1986 by reason of any action taken under this  
2 Act.

3 (b) TRANSFERS.—For purposes of the Internal Rev-  
4 enue Code of 1986, no amount shall be includible in the  
5 gross income of any individual in any tax year by reason  
6 of any direct transfer under this Act between funds or any  
7 Government contribution under this Act to any fund or  
8 account in any such tax year.

## 9 **TITLE V—MISCELLANEOUS** 10 **RETIREMENT PROVISIONS**

### 11 **SEC. 501. FEDERAL RESERVE BOARD PORTABILITY OF** 12 **SERVICE CREDIT.**

13 (a) CREDITABLE SERVICE.—

14 (1) IN GENERAL.—Section 8411(b) of title 5,  
15 United States Code, is amended—

16 (A) by striking “and” at the end of para-  
17 graph (3);

18 (B) in paragraph (4)—

19 (i) by striking “of the preceding provi-  
20 sions” and inserting “other paragraph”;  
21 and

22 (ii) by striking the period at the end  
23 and inserting “; and”; and

24 (C) by adding at the end the following:

1           “(5) a period of service (other than any service  
 2           under any other paragraph of this subsection, any  
 3           military service, and any service performed in the  
 4           employ of a Federal Reserve Bank) that was cred-  
 5           itable under the Bank Plan (as defined in subsection  
 6           (i)), if the employee waives credit for such service  
 7           under the Bank Plan and makes a payment to the  
 8           Fund equal to the amount that would have been de-  
 9           ducted from pay under section 8422(a) had the em-  
 10          ployee been subject to this chapter during such pe-  
 11          riod of service (together with interest on such  
 12          amount computed under paragraphs (2) and (3) of  
 13          section 8334(e)).

14 Paragraph (5) shall not apply in the case of any employee  
 15 as to whom subsection (g) (or, to the extent subchapter  
 16 III of chapter 83 is involved, section 8332(n)) otherwise  
 17 applies.”.

18           (2) BANK PLAN DEFINED.—Section 8411 of  
 19           title 5, United States Code, is amended by adding  
 20           at the end the following:

21           “(i) For purposes of subsection (b)(5), the term  
 22           ‘Bank Plan’ means the benefit structure in which employ-  
 23           ees of the Board of Governors of the Federal Reserve Sys-  
 24           tem appointed on or after January 1, 1984, participate,  
 25           which benefit structure is a component of the Retirement

1 Plan for Employees of the Federal Reserve System, estab-  
 2 lished under section 10 of the Federal Reserve Act (and  
 3 any redesignated or successor version of such benefit  
 4 structure, if so identified in writing by the Board of Gov-  
 5 ernors of the Federal Reserve System for purposes of this  
 6 chapter).”.

7 (b) EXCLUSION FROM CHAPTER 84.—

8 (1) IN GENERAL.—Paragraph (2) of section  
 9 8402(b) of title 5, United States Code, is amended  
 10 by striking the matter before subparagraph (B) and  
 11 inserting the following:

12 “(2)(A) any employee or Member who has sepa-  
 13 rated from the service after—

14 “(i) having been subject to—

15 “(I) subchapter III of chapter 83 of  
 16 this title;

17 “(II) subchapter I of chapter 8 of title  
 18 I of the Foreign Service Act of 1980; or

19 “(III) the benefit structure for em-  
 20 ployees of the Board of Governors of the  
 21 Federal Reserve System appointed before  
 22 January 1, 1984, that is a component of  
 23 the Retirement Plan for Employees of the  
 24 Federal Reserve System, established under  
 25 section 10 of the Federal Reserve Act; and

1 “(ii) having completed—

2 “(I) at least 5 years of civilian service  
3 creditable under subchapter III of chapter  
4 83 of this title;

5 “(II) at least 5 years of civilian serv-  
6 ice creditable under subchapter I of chap-  
7 ter 8 of title I of the Foreign Service Act  
8 of 1980; or

9 “(III) at least 5 years of civilian serv-  
10 ice (other than any service performed in  
11 the employ of a Federal Reserve Bank)  
12 creditable under the benefit structure for  
13 employees of the Board of Governors of  
14 the Federal Reserve System appointed be-  
15 fore January 1, 1984, that is a component  
16 of the Retirement Plan for Employees of  
17 the Federal Reserve System, established  
18 under section 10 of the Federal Reserve  
19 Act,

20 determined without regard to any deposit or re-  
21 deposit requirement under either such sub-  
22 chapter or under such benefit structure, or any  
23 requirement that the individual become subject  
24 to either such subchapter or to such benefit

1 structure after performing the service involved;  
2 or”.

3 (2) EXCEPTION.—Subsection (d) of section  
4 8402 of title 5, United States Code, is amended to  
5 read as follows:

6 “(d) Paragraph (2) of subsection (b) shall not apply  
7 to an individual who—

8 “(1) becomes subject to—

9 “(A) subchapter II of chapter 8 of title I  
10 of the Foreign Service Act of 1980 (relating to  
11 the Foreign Service Pension System) pursuant  
12 to an election; or

13 “(B) the benefit structure in which em-  
14 ployees of the Board of Governors of the Fed-  
15 eral Reserve System appointed on or after Jan-  
16 uary 1, 1984, participate, which benefit struc-  
17 ture is a component of the Retirement Plan for  
18 Employees of the Federal Reserve System, es-  
19 tablished under section 10 of the Federal Re-  
20 serve Act (and any redesignated or successor  
21 version of such benefit structure, if so identified  
22 in writing by the Board of Governors of the  
23 Federal Reserve System for purposes of this  
24 chapter); and

1           “(2) subsequently enters a position in which,  
2           but for paragraph (2) of subsection (b), such indi-  
3           vidual would be subject to this chapter.”.

4           (c) PROVISIONS RELATING TO CERTAIN FORMER  
5 EMPLOYEES.—A former employee of the Board of Gov-  
6 ernors of the Federal Reserve System who—

7           (1) has at least 5 years of civilian service (other  
8           than any service performed in the employ of a Fed-  
9           eral Reserve Bank) creditable under the benefit  
10          structure for employees of the Board of Governors  
11          of the Federal Reserve System appointed before  
12          January 1, 1984, that is a component of the Retire-  
13          ment Plan for Employees of the Federal Reserve  
14          System, established under section 10 of the Federal  
15          Reserve Act;

16          (2) was subsequently employed subject to the  
17          benefit structure in which employees of the Board of  
18          Governors of the Federal Reserve System appointed  
19          on or after January 1, 1984, participate, which ben-  
20          efit structure is a component of the Retirement Plan  
21          for Employees of the Federal Reserve System, estab-  
22          lished under section 10 of the Federal Reserve Act  
23          (and any redesignated or successor version of such  
24          benefit structure, if so identified in writing by the  
25          Board of Governors of the Federal Reserve System

1 for purposes of chapter 84 of title 5, United States  
2 Code); and

3 (3) after service described in paragraph (2), be-  
4 comes subject to and thereafter entitled to benefits  
5 under chapter 84 of title 5, United States Code,  
6 shall, for purposes of section 302 of the Federal Employ-  
7 ees' Retirement System Act of 1986 (100 Stat. 601; 5  
8 U.S.C. 8331 note) be considered to have become subject  
9 to chapter 84 of title 5, United States Code, pursuant to  
10 an election under section 301 of such Act.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Subject to succeeding provi-  
13 sions of this subsection, this section and the amend-  
14 ments made by this section shall take effect on the  
15 date of enactment of this Act.

16 (2) PROVISIONS RELATING TO CREDITABILITY  
17 AND CERTAIN FORMER EMPLOYEES.—The amend-  
18 ments made by subsection (a) and the provisions of  
19 subsection (c) shall apply only to individuals who  
20 separate from service subject to chapter 84 of title  
21 5, United States Code, on or after the date of enact-  
22 ment of this Act.

23 (3) PROVISIONS RELATING TO EXCLUSION  
24 FROM CHAPTER.—The amendments made by sub-  
25 section (b) shall not apply to any former employee



1 of the Board of Governors of the Federal Reserve  
 2 System who, subsequent to his or her last period of  
 3 service as an employee of the Board of Governors of  
 4 the Federal Reserve System and prior to the date of  
 5 enactment of this Act, became subject to subchapter  
 6 III of chapter 83 or chapter 84 of title 5, United  
 7 States Code, under the law in effect at the time of  
 8 the individual's appointment.

9 **SEC. 502. CERTAIN TRANSFERS TO BE TREATED AS A SEPA-**  
 10 **RATION FROM SERVICE FOR PURPOSES OF**  
 11 **THE THRIFT SAVINGS PLAN.**

12 (a) AMENDMENTS TO CHAPTER 84 OF TITLE 5,  
 13 UNITED STATES CODE.—

14 (1) IN GENERAL.—Subchapter III of chapter  
 15 84 of title 5, United States Code, is amended by in-  
 16 serting before section 8432 the following:

17 **“§ 8431. Certain transfers to be treated as a separa-**  
 18 **tion**

19 “(a) For purposes of this subchapter, separation  
 20 from Government employment includes a transfer from a  
 21 position that is subject to one of the retirement systems  
 22 described in subsection (b) to a position that is not subject  
 23 to any of them.

24 “(b) The retirement systems described in this sub-  
 25 section are—

1 “(1) the retirement system under this chapter;

2 “(2) the retirement system under subchapter

3 III of chapter 83; and

4 “(3) any other retirement system under which

5 individuals may contribute to the Thrift Savings

6 Fund through withholdings from pay.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-

8 tions for chapter 84 of title 5, United States Code,

9 is amended by inserting before the item relating to

10 section 8432 the following:

“8431. Certain transfers to be treated as a separation.”.

11 (b) CONFORMING AMENDMENTS.—Subsection (b) of

12 section 8351 of title 5, United States Code, is amended

13 by redesignating paragraph (11) as paragraph (8), and

14 by adding at the end the following:

15 “(9) For the purpose of this section, separation

16 from Government employment includes a transfer

17 described in section 8431.”.

18 (c) EFFECTIVE DATE.—The amendments made by

19 this section shall apply with respect to transfers occurring

20 before, on, or after the date of enactment of this Act, ex-

21 cept that, for purposes of applying such amendments with

22 respect to any transfer occurring before such date of en-

23 actment, the date of such transfer shall be considered to

24 be the date of enactment of this Act. The Executive Direc-

25 tor (within the meaning of section 8401(13) of title 5,

- 1 United States Code) may prescribe any regulations nec-
- 2 essary to carry out this subsection.